IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE UNITED STATES OF AMERICA, *ex rel.* DONALD GALE,	Case No. 1:10-CV-0127
Plaintiff,	Judge James S. Gwin
vs.	
OMNICARE, INC.,	
Defendant.	

RELATOR'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE RELATOR'S REPLY IN SUPPORT OF RELATOR'S MOTION TO EXCLUDE THE EXPERT REPORT OF DR. MOHAN RAO, PH.D.

Plaintiff-Relator Donald Gale hereby opposes Defendant's Motion to Strike Relator's Reply. Northern District of Ohio Local Civil Rule 7.1(e) states that

> Unless otherwise ordered by the Judicial Officer, the moving party may serve and file a reply memorandum in support of any dispositive motion within fourteen (14) days after service of the memorandum in opposition and in support of any non-dispositive motion within seven (7) days after service of the memorandum in opposition.

The Court's Order governing expert reports, dated January 8, 2013 (ECF No. 51), is silent with respect to reply memoranda. Relator respectfully submits that because the Court has not "otherwise ordered," the default rule—that is, Local Rule 7.1(e)—governs, and Relator's reply should be permitted, as it was filed within seven days after service of Defendant's opposition to a non-dispositive motion.

In the alternative, Relator respectfully seeks the Court's leave to file the reply.

DATED: September 6, 2013

Respectfully submitted,

MORGAN VERKAMP, LLC

By: *_/s/ Ross Brooks_*

Ross B. Brooks (*pro hac vice*)
Michael D. Palmer *(pro hac vice)*
SANFORD HEISLER, LLP
1350 Avenue of the Americas
31st Floor
New York, NY 10019
Tel: (646) 402-5650
Fax: (646) 402-5651
rbrooks@sanfordheisler.com
mpalmer@sanfordheisler.com

Frederick M. Morgan, Jr. (OH 0027687)
Jennifer M. Verkamp (OH 0067198)
700 Walnut Street, Suite 400
Cincinnati, OH 45202
Tel: (513) 651-4400
Fax: (513) 651-4405
rmorgan@morganverkamp.com
jverkamp@morganverkamp.com

Daniel R. Miller (*pro hac vice*)
Shauna B. Itri *(pro hac vice)*
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
Tel: 215.875.5702
Fax: 215.875.4604
dmiller@bm.net
sitri@bm.net

Virginia A. Davidson (OH 0025773)
Eric S. Zell (OH 0084318)
Laurie C. McBride (OH 0080059)
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114-1607
Tel: 216.622.8200
Fax: 216.241.0816
vdavidson@calfee.com
ezell@calfee.com

Counsel for Plaintiff and Relator Donald Gale

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was filed electronically this 6th day of September, 2013, with the U.S. District Court for the Northern District of Ohio. Notice of this filing will be sent via electronic mail to all parties who have entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's ECF system.

/s/ Ross B. Brooks
Ross B. Brooks

Attorney for Plaintiff and Relator
Donald Gale